

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

IN RE
AIR CARGO SHIPPING SERVICES
ANTITRUST LITIGATION
MDL No. 1775

06-MD-1775 (JG) (VVP)

THIS DOCUMENT RELATES TO:
All Actions

**PLAINTIFFS' MEMORANDUM IN SUPPORT OF MOTION TO AUTHORIZE
DISSEMINATION OF CLASS NOTICE AND CLAIM FORM AND TO SCHEDULE
FAIRNESS HEARING FOR FINAL APPROVAL OF PROPOSED SETTLEMENTS,
APPLICATION FOR ATTORNEYS' FEES AND EXPENSES AND APPROVAL OF
PLAN OF ALLOCATION**

Nine proposed class settlements are currently pending before the Court. On September 6, 2011, this Court entered orders granting preliminary approval to five settlements entered between plaintiffs and the following defendants: (1) Lan Airlines, S.A., Lan Cargo, S.A., and Aerolinhas Brasileiras, S.A. (the "Lan/ABSA Settlement") [Order, ECF No. 1568]; (2) British Airways Plc (the "British Airways Settlement") [Order, ECF No. 1569]; (3) Malaysia Airlines (the "Malaysia Settlement") [Order, ECF No. 1570]; (4) South African Airways Ltd. (the "South African Settlement") [Order, ECF No. 1571]; and (5) Saudi Arabian Airlines, Ltd. (the "Saudia Settlement") [Order, ECF No. 1572]. On December 15, 2011, this Court granted preliminary approval to a settlement between plaintiffs and defendant Emirates (the "Emirates Settlement") [ECF No. 1622]. On January 5, 2012, this Court granted preliminary approval to a settlement between plaintiffs and defendant El Al Israel Airlines Ltd. (the "El Al Settlement") [Order, ECF No. 1630]. On February 9, 2012, this Court granted preliminary approval to a settlement between plaintiffs and defendant Air Canada and AC Cargo LP (the "Air Canada Settlement") [Order, ECF No. 1652]. On March 1, 2012, this Court granted preliminary approval to a

settlement between plaintiffs and defendant Salvatore Sanfilippo (the “Sanfilippo Settlement”) [Order, ECF No. 1657].

Plaintiffs respectfully move the Court to schedule a Fairness Hearing for a date at least 120 days after the date of entry of the Proposed Order submitted herewith to consider (i) the fairness, reasonableness, and adequacy of the Lan/ABSA Settlement, the British Airways Settlement, the Malaysia Settlement, the South African Settlement, the Saudia Settlement, the Emirates Settlement, the El Al Settlement, the Air Canada Settlement, and the Sanfilippo Settlement; (ii) a request for attorneys’ fees and litigation expenses; and (iii) the Plan of Allocation for the distribution of the settlements.

In addition, plaintiffs respectfully move the Court to approve the dissemination of a single “Notice of Proposed Class Action Settlement” and a single “Publication Notice” to provide notice to class members of all nine pending settlements, in the forms annexed as Exhibit 1 and 2 to the Proposed Order submitted herewith.

I. Under the Terms of the Preliminary Approval Orders, a Fairness Hearing Should Be Scheduled By the Court.

Plaintiffs respectfully request that the Court schedule a single Fairness Hearing in connection with the Lan/ABSA, British Airways, Malaysia, South African, Saudia, Emirates, El Al, Air Canada, and Sanfilippo Settlements. At the hearing, the Court should consider whether each of the proposed settlements is fair, reasonable, and adequate, whether to approve a request for attorneys’ fees and litigation expenses, and whether to approve the Plan of Allocation for the distribution of the settlements.

The Proposed Order provides that class members requesting exclusion from each settlement class must “mail a request in written form by first-class mail, postmarked no later than sixty (60) days after the Notice Date (fifteen (15) days after the entry of an order providing for

the form of notice) to the address of the Administrator designated in the Notice.” Proposed Order ¶ 5. Papers in support of final approval of the settlements are to be submitted forty-five (45) days prior to the Fairness Hearing. *Id.* ¶ 7. Class members who intend to object to the fairness, reasonableness, and adequacy of the settlements must file and serve a signed statement twenty (20) days or more before the Fairness Hearing. *Id.* ¶ 8.

Plaintiffs respectfully suggest that the scheduling of a Fairness Hearing for a date at least 120 days after the entry of the Proposed Order will provide parties and class members sufficient time to comply with each of these deadlines.

II. Plaintiffs Request Authorization to Disseminate A Single Class Notice of All Nine Settlements.

Plaintiffs request authorization to disseminate a single “Notice of Proposed Class Action Settlement” and a single “Publication Notice” to provide class members with notice of the Lan/ABSA, British Airways, Malaysia, South African, Saudia, Emirates, El Al, Air Canada, and Sanfilippo Settlements. Copies of each of these Notices are attached as Exhibits 1 and 2 to the Proposed Order submitted herewith.¹

The use of the combined Notices is intended to minimize the costs of the notice program for each settlement. Thus, Plaintiffs respectfully move the Court to authorize the dissemination of the Notices attached to the Proposed Order.

Dated: New York, New York
March 5, 2012

Respectfully submitted,

¹ Plaintiffs also intend to disseminate with the mailed notice, a claim form, substantially in the form of Exhibit 4 to the Proposed Order, except that settlement class members who have already submitted a valid claim form shall receive, instead of the claim form, a letter substantially in the form of Exhibit 3 to the Proposed Order.

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